

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, et al.,

Plaintiffs,

vs.

Case No. 3:20-cv-04688-RS

GOOGLE LLC,

Defendant.

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ATTORNEYS' EYES ONLY

VIDEO DEPOSITION OF MICHAEL J. LASINSKI

San Francisco, California

Thursday, June 29, 2023

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STENOGRAPHICALLY REPORTED BY:

REBECCA L. ROMANO, RPR, CSR, CCR

California CSR No. 12546

22 | Nevada CCR No. 827

Oregon CSR No. 20-0466

23 Washington CCR No. 3491

24 JOB NO. 5971107

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1 floor for actual damages. And so that -- that 11:23:19
2 would be a floor for actual damages, a floor for
3 what that calculation would looks like.

4 Q. Have you tried to calculate actual -- 11:23:35
5 actual damages in the case, or just tried to
6 calculate the floor of actual damages?

7 MR. LEE: Objection to form.

8 THE DEPONENT: I -- I think it's an
9 appropriate calculation for actual damages. I
10 think it could be higher. But it's conservative. 11:23:53

11 Q. (By Mr. Santacana) You have said that
12 it's conservative many times already today, and you
13 have called it a floor multiple times. So I'm just
14 trying to understand.

15 Was your task to calculate the floor, or 11:24:06

16 was your task to calculate the actual damages to
17 the actual class members?

18 A. My task was to calculate the actual
19 damages to the actual class members. I believe
20 I've done that in a conservative manner. 11:24:19

21 Q. What does that mean? Did you get it
22 right or not?

23 A. I do -- I do have it right, yes.

24 Q. Then why do you say it's conservative?

25 A. Because it's -- because at the end of the 11:24:33

1 day, it -- there's a potential for it to be higher. 11:24:37

2 But I believe -- but I believe, based on
3 the information that I have available to me,
4 that -- that it is the best estimate of what would
5 be appropriate in this case. 11:24:48

6 Q. All right. Is there a potential that
7 it's a lot higher?

8 MR. LEE: Objection. Form.

9 THE DEPONENT: Not that I'm aware of, no.

10 Q. (By Mr. Santacana) You're not concerned 11:24:59
11 that your actual damages opinion is grossly
12 undercompensating the class?

13 A. I am not.

14 Q. Why not?

15 A. Because I think, based on the information 11:25:13
16 available to me, that this is an appropriate
17 conservative estimate.

18 Q. I know that's what you think. That's
19 your conclusion.

20 I want to know why that's your 11:25:20
21 conclusion.

22 A. I -- I think I just answered.

23 Q. No, you didn't.

24 A. Okay. Well, I think I did.

25 Q. Why do you think it's appropriate? 11:25:28

1 second.

11:30:29

2 You're aware that Google has records of
3 when devices -- when users had WAA on and WAA off?

4 A. Yes.

5 Q. And for how long?

11:30:38

6 A. Yes.

7 Q. So you could, for example, calculate
8 number of SWAA-off months for each user, right?

9 A. I did do that, yes.

10 Q. You did do that.

11:30:49

11 So why didn't you pay them per SWAA-off
12 month in your actual damages opinion?

13 A. I mean, ultimately, I thought it was more
14 appropriate and -- and conservative to do it -- to
15 do a one-time calculation based on the information
16 that I had available to me.

11:31:02

17 Q. Why was it more appropriate to do a
18 one-time calculation?

19 MR. LEE: Asked and answered.

20 THE DEPONENT: Yeah.

11:31:16

21 MR. LEE: Go ahead and answer it again if
22 you want.

23 THE DEPONENT: Again, even if I -- even
24 if I had SWAA-off months, that wouldn't necessarily
25 tell me whether or not, technically -- technically,

11:31:28

1 if they hit a third-party site with Google track -- 11:31:37
2 with a Google tracker on it.
3 And so in this case, to be, as I've said
4 in the past, appropriate and conservative, I did
5 it -- I calculated a one-time payment per device. 11:31:52

6 Q. (By Mr. Santacana) And why would you pay
7 a SWAA-off device if they never hit a third-party
8 tracker site at all?

9 A. I think it's unlikely that a
10 third-party -- that -- it's unlikely that a third 11:32:16
11 party -- that a SWAA-off device would not hit a
12 third-party tracker. It's -- it's very likely that
13 it would based on usage as well as the amount of
14 trackers that are out there.

15 Q. You would agree that different people 11:32:36
16 would hit third-party trackers different amounts
17 depending on their usage patterns?

18 A. That may be -- that may be accurate.

19 Q. It may be accurate?

20 You think it's possible that every member 11:32:58
21 of the class has hit the exact same number of
22 third-party trackers?

23 A. No.

24 Q. Okay. So it is accurate?

25 A. It is -- that is accurate. 11:33:05

1 Google is going to use it for? 06:46:09

2 A. To some -- to some extent, yes, that

3 makes sense.

4 Q. Okay. So did you describe in your report

5 or come to any reasoning about what impact Google's 06:46:16

6 use of the data would have on the price, this \$3

7 price?

8 MR. LEE: Asked and answered.

9 THE DEPONENT: I mean, again, I know how

10 they're -- I know how they're using the data. I 06:46:33

11 have, obviously, the information that was provided

12 to me.

13 So yes, I -- I looked at that. I looked

14 at that, and I compared it to the Ipsos study.

15 Q. (By Mr. Santacana) Right. 06:46:47

16 A. And then I determined that a \$3 price was

17 appropriate per device --

18 Q. The Ipsos study --

19 A. -- in this case.

20 Q. I'm sorry. Go ahead. 06:46:53

21 A. For this case.

22 Q. The Ipsos study terms allow Google to use

23 the participants' data for personalized

24 advertising, right?

25 A. That is correct. 06:47:08

1 Q. And those terms allow Google to join the 06:47:08
2 data with other data Google has about that person,
3 right?
4 A. That is correct. Yes.
5 Q. Okay. The terms of the transaction that 06:47:16
6 you're hypothesizing in paragraph 130, 131 and 132
7 would not permit that, right?
8 A. Well, that -- that is my assumption, yes.
9 No, it would not. They do not -- they do not get
10 personalized ads right now, so I would not expect 06:47:49
11 that they would expect that they would all of a
12 sudden start receiving personalized ads. That's
13 correct.
14 Q. So did you adjust the Ipsos price
15 downward to reflect that greater restriction on the 06:47:59
16 use of the data?
17 A. No, one wouldn't -- I would not need to
18 do that, no.
19 Q. Why not?
20 A. Because here, again, in the Ipsos -- we 06:48:05
21 talked about this earlier.
22 In Ipsos study, we are talking about
23 willing participants versus unwilling participants.
24 So the WAA-off/sWAA-off users are
25 unwilling participants in this. 06:48:21

1 "conservative" mean in that sentence? 06:56:45

2 A. It means that it could be -- it could, in

3 fact, be higher. But I think that this is an

4 appropriate price to incentivize based on what I

5 said -- based on what I said before, to incentivize 06:56:55

6 those users to part with their data.

7 Q. Would \$4 be an appropriate price?

8 MR. LEE: Objection to form.

9 THE DEPONENT: I -- I did not do an

10 analysis of \$4, so I don't know the answer to that. 06:57:06

11 Q. (By Mr. Santacana) What do you mean you

12 did not do -- you did an analysis and came up with

13 a number. So presumably, you considered all

14 numbers that exist, and you arrived at one of them

15 and said, "This is the answer." 06:57:16

16 So I'm just saying, why did you rule out

17 \$4?

18 A. Ultimately, I've got a market transaction

19 here that shows \$3.

20 Q. Per month, which you deviated from? 06:57:25

21 A. Correct.

22 Q. So why didn't you say \$4?

23 A. Because --

24 MR. LEE: Asked and answered.

25 Go ahead. 06:57:37

1 THE DEPONENT: Because based on the 06:57:37
2 totality of the information available to me, as we
3 talked about earlier in the deposition, I think
4 that -- I think that \$3 is an appropriate amount.

5 A one-time payment of \$3 is an appropriate amount. 06:57:48

6 Q. (By Mr. Santacana) So you would agree
7 with me that \$4 is too much?

8 MR. LEE: Mischaracterizes testimony.

9 THE DEPONENT: Again, I think \$3 is
10 conservative. Could be it higher than \$3? Yes. 06:58:03
11 It could be --

12 Q. (By Mr. Santacana) Could be it lower?

13 MR. LEE: Hold on. Let him finish.

14 THE DEPONENT: Could it be higher than
15 \$3? Yes. No, I do think it could be lower than 06:58:09
16 \$3.

17 Q. (By Mr. Santacana) So \$3 is the lowest
18 number that you could come up with?

19 A. \$3 per device. I don't think that I
20 would come up with a number lower than that. I 06:58:19
21 did -- I would not come up with a number lower than
22 that.

23 Q. Are there members of the class who you
24 would expect would demand more than \$3 if they had
25 the opportunity to engage in this negotiation? 06:58:34

1 I, Rebecca L. Romano, a Stenographic Certified
2 Shorthand Reporter of the State of California, do
3 hereby certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath;
8 that a record of the proceedings was made by me
9 using machine shorthand which was thereafter
10 transcribed under my direction; that the foregoing
11 transcript is true record of the testimony given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [X] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21 Dated: July 5, 2023

22
23 
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25
Rebecca L. Romano, RPR,
CSR. No 12546